



Wisconsin State Senator

**PAM GALLOWAY**

Senate District 29

*Senate* **Testimony on Assembly Bill 467**  
~~Assembly~~ **Committee on Natural Resources and Environment**  
**February 2, 2012**

Chairman Kedzie and members of the committee, thank you for taking the time to hear Assembly Bill 467 (AB 467) today. I apologize that I'm not there in person to deliver my remarks.

As a way of background, the Environmental Protection Agency (EPA) regulates greenhouse gas emissions, including carbon dioxide (CO<sub>2</sub>) under the Prevention of Significant Deterioration and Title V permitting programs. Last July, the EPA published a three-year deferral of the regulation of biogenic CO<sub>2</sub> emissions under these two programs. Biogenic emissions result from the burning of natural materials such as wood and other organic matter and are considered to be carbon-neutral.

This three-year deferral did not become effective in all states automatically. In Wisconsin, the deferral will have limited legal effect until we adopt a statutory or administrative rule change reflecting the action of the EPA. Passage of this legislation would allow the deferral to be in place for most of the three-year period for impacted industries such as biofuels, agriculture, and forest products.

I believe that the passage of AB 467 will help to level the playing field for these industries. I want to thank Representative Klenke for his hard work on this bill. Thank you for your time and consideration and I urge your concurrence of Assembly Bill 467.



# Wisconsin Bio Industry Alliance

## MEMO

February 2, 2012

To: Members – Senate Committee on Natural Resources and Environment

### **SUPPORT AB 467 ON BIOGENIC CO<sub>2</sub> DEFERRAL**

On behalf of the Wisconsin Bio Industry Alliance (WBIA) and the Wisconsin Corn Growers Association (WCGA), we are asking you to support AB 467 which implements a deferral for biogenic carbon dioxide emissions.

*The adoption of this bill will positively affect several current projects – leading directly to job creation in our state.*

In order to mirror a recent EPA decision regarding a three-year deferral for the regulation of biogenic carbon dioxide emissions, Wisconsin needs to act. Normal rule-making procedures for addressing this issue would eat up most of the three year deferral window, making it of little value in Wisconsin.

Thus we are asking for statutory relief.

EPA regulates greenhouse gas emissions, including carbon dioxide (CO<sub>2</sub>), under the Prevention of Significant Deterioration (PSD) and Title V permitting programs. On July 20, 2011, EPA published in the Federal Register a three-year deferral of the regulation of biogenic CO<sub>2</sub> emissions under these two programs. Biogenic emissions result from the combustion or decomposition of natural materials, such as woody material or plants, and are considered to be carbon-neutral under most regulatory schemes around the world.

This obviously affects the fermentation that occurs in ethanol plants and breweries, as well as our paper industry.

This deferral did not become automatically effective in all states. In SIP (State Implementation Plan) approved states like Wisconsin the deferral needs state implementation and EPA approval. The wording of the bill comes directly from the EPA decision found in 40 CFR 51.166(b)(48)(ii)(a) and 40 CFR 70.2(2).

***Please join ALL the members of the State Assembly in supporting AB 467.***

For more information feel free to contact our representative, Bob Welch, at 608.819.0150.



**Testimony before the Senate Committee on Natural Resources and Environment  
AB 467-Relating to Consideration of Certain Greenhouse Gases in Air Permitting**

*Testimony by Andrew Stewart  
Air Permitting Section Chief, Wisconsin Department of Natural Resources (DNR)*

Thank you for the opportunity to testify today on behalf of the DNR. I am currently the Chief of the Permits and Stationary Source Modeling Section at the Bureau of Air Management. I am here to testify for information only regarding AB 467.

**BACKGROUND**

Under new federal regulations, new or modified sources that will emit greenhouse gases that exceed certain thresholds are subject to air permitting requirements. Sources that trigger these thresholds must use "best available control technology" to control emissions and receive major source operation permits. In July 2011, the Environmental Protection Agency (EPA), however, decided to issue a three-year deferral on considering carbon dioxide emissions from biogenic sources in determining whether greenhouse gas permitting emission thresholds were met. This deferral was issued to provide time to examine the science associated with the impacts of these emissions. That deferral is currently scheduled to expire on July 21, 2014.

In order for Wisconsin to implement this federal deferral, it is necessary to adopt a final rule or statute reflecting this federal change. Additionally, the provision that is adopted will have to be submitted to EPA for approval. Given that this is a three year deferral, if Wisconsin wants to take advantage of this provision, the quickest way to do so would be to adopt the statutory provision contained within AB 467.

Here are some additional points for your consideration:

- Many states, including Minnesota, Illinois and Iowa already are implementing this deferral.
- The types of sources that may be impacted by this deferral include, but is not limited to, electric utilities burning biomass, pulp and paper manufacturing, solid waste landfills and ethanol manufacturing.
- US EPA believes there are several reasons states should adopt the deferral including the need for more time to determine how best to address technical, scientific and practical issues.
- No other permitting requirements for other pollutant emissions that are otherwise applicable to the source are affected by the deferral.

Thank you, and I would be happy to answer any questions.



February 2, 2012

**To:** Senate Committee on Natural Resources and Environment

**From:** Edward J. Wilusz, Vice President Government Relations

**Subject:** Assembly Bill 467 – Greenhouse Gas Emissions

Assembly Bill 467 would bring Wisconsin law into conformance with U.S. Environmental Protection Agency regulations relating to the treatment of certain biogenic greenhouse gas emissions.

The Wisconsin Paper Council supports Assembly Bill 467.

EPA regulates greenhouse gas emissions, including carbon dioxide (CO<sub>2</sub>), under the Prevention of Significant Deterioration (PSD) and Title V permitting programs. EPA's Tailoring Rule was published on June 3, 2010, and regulates all greenhouse gas emissions. On July 20, 2011, EPA published in the Federal Register a three-year deferral of the regulation of biogenic greenhouse gas emissions, primarily CO<sub>2</sub>, under these two programs. Biogenic emissions result from the burning of natural materials, like wood and other organic matter, and are considered to be carbon-neutral and, thus, not limited under most regulatory schemes around the world. The purpose of the EPA deferral is to study whether these emissions should be considered to be carbon-neutral in this country.

This deferral did not become automatically effective in all states. In SIP-approved states like Wisconsin (SIP stands for State Implementation Plan) the deferral will have limited legal effect until the state adopts a statutory or administrative rule change reflecting the EPA action, and EPA subsequently approves the Wisconsin change. The administrative rule option could take well over a year to complete and EPA approval could take many more months. Such a delay would eat up most of the three-year deferral period, making the deferral of limited value in Wisconsin. However, a statutory change, like that proposed in AB 467, could be made much more quickly and the statutory change could be submitted to EPA for approval in the near future. This would allow the deferral to be in place for most of the three-year EPA deferral period, making it more valuable to Wisconsin sources, including the forest products, agriculture, and biofuels industries.



For comparison, among surrounding states, Minnesota, Michigan, and Illinois are "delegated" states for the PSD program. This means that the state needs to take no action for a federal rule to take effect. So, in these three states the greenhouse gas deferral was effective on July 20, 2011. Iowa and Indiana are SIP-approved states like Wisconsin. Both are working through the rule-making process and will need EPA approval. Iowa has an expedited rule process and its state rule has been adopted and sent to EPA for approval. Indiana's rule-making process is closer to Wisconsin's and they do not expect to have a rule ready to send to EPA until late in 2012.

From a practical standpoint, the EPA deferral would exempt certain sources of biogenic greenhouse gas emissions from PSD and Title V permitting until a decision is made on the carbon neutrality question (although these sources would likely be subject to other permitting requirements). Among the surrounding states, Michigan, Minnesota, and Illinois already exempt these sources, and Iowa is well on its way to exempting them. Passage of AB 467 would level the regulatory playing field for Wisconsin sources.

The approach taken in the bill is to tie Wisconsin law to the EPA regulation. As a result, regardless of what action EPA takes, federal and state law will remain in sync.

We urge your support for AB 467.